

NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
 Notice without a scheduled hearing
 Republication of text. Complete the following cite for the volume, issue, and date of previous publication, as well as blocks 1 - 5 and 8 - 15. If a hearing is scheduled, complete block 6.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: NC Board of Cosmetic Art Examiners
2. Agency obtained G.S. 150B-19.1 certification: <input type="checkbox"/> OSBM certified on: <input type="checkbox"/> RRC certified on: <input checked="" type="checkbox"/> Not Required
3. Agency website postings: <ul style="list-style-type: none">• Text of proposed rule posted at: www.nccosmeticarts.com/uploads/Board/PROctober2012.pdf• Explanation and reason for proposed rule posted at: www.nccosmeticarts.com/uploads/Board/PROctober2012.pdf• Federal Certification posted at:• Instructions for oral and written comments posted at: www.nccosmeticarts.com/uploads/Board/PROctober2012.pdf• Fiscal Note if prepared posted at:
4. Proposed Action -- Check the appropriate box(es) and list <u>rule citation(s)</u> beside proposed action: <input type="checkbox"/> ADOPTION: <input checked="" type="checkbox"/> AMENDMENT: 21 NCAC 14H .0103, 21 NCAC 14P .0108, 21 NCAC 14T .612, 21 NCAC 14T .0701, 21 NCAC 14T .0502, 21 NCAC 14T .0606 <input type="checkbox"/> REPEAL:
5. Proposed effective date: March 1, 2013
6. Is a public hearing planned? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes: Public Hearing date: November 30, 2012 Public Hearing time: 9:00 am Public Hearing Location: 1207 Front Street Suite 110 Raleigh, NC 27609
7. If no public hearing is scheduled, provide instructions on how to demand a public hearing:
8. Explain Reason For Proposed Action: These rules have been written/amended by the Board to provide clear language for required licensee actions per GS 88B and to eliminate unnecessary regulations or parts of regulations.

9. The procedure by which a person can object to the agency on a proposed rule: Interested persons may present oral or written comments at the rule-making hearing. In addition, the record will be open for receipt of written comments from October 24, 2012 until January 14, 2013. Written comments not presented at the hearing should be directed to Stefanie Kuzdrall.

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

10. The person to whom written comments may be submitted on the proposed rule:

Name: Stefanie Kuzdrall

Address: 1207 Front Street Suite 110 Raleigh, NC 27609

Phone (optional):

Fax (optional):

E-Mail (optional):

11. Comment Period Ends: January 14, 2013

12. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- State funds affected
- Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- Local funds affected
Date submitted to OSBM:
- Substantial economic impact (\geq \$500,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

13. Rule-making Coordinator: Stefanie Kuzdrall

Address: 1207 Front Street Suite 110 Raleigh, NC 27609

Phone: 919-715-0018

E-Mail: skuzdrall@nccosmeticarts.com

Agency contact, if any:

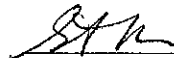
Phone:

E-mail:

14. The Agency formally proposed the text of this rule(s) on

Date: October-15, 2012

15. Signature of Agency Head* or Rule-making Coordinator:



*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Stefanie Kuzdrall

Title: Rule-Making Coordinator

**21 NCAC 14P .0108 REVOCATION OF LICENSES AND OTHER DISCIPLINARY MEASURES IS
PROPOSED FOR AMENDMENT AS FOLLOWS:**

21 NCAC 14P .0108 REVOCATION OF LICENSES AND OTHER DISCIPLINARY MEASURES

(a) The presumptive civil penalty for allowing unlicensed practitioners to practice in a licensed cosmetic art shop is:

- | | | |
|-----|-------------|-----------|
| (1) | 1st offense | \$500.00 |
| (2) | 2nd offense | \$750.00 |
| (3) | 3rd offense | \$1000.00 |

(b) The presumptive civil penalty for practicing cosmetology, natural hair care, manicuring or esthetics with a license issued to another person is:

- | | | |
|-----|-------------|------------|
| (1) | 1st offense | \$500.00 |
| (2) | 2nd offense | \$800.00 |
| (3) | 3rd offense | \$1,000.00 |

(c) The presumptive civil penalty for altering a license, permit or authorization issued by the Board is:

- | | | |
|-----|-------------|-----------|
| (1) | 1st offense | \$500.00 |
| (2) | 2nd offense | \$800.00 |
| (3) | 3rd offense | \$1000.00 |

(d) The presumptive civil penalty for submitting false or fraudulent documents is:

- | | | |
|-----|-------------|------------|
| (1) | 1st offense | \$500.00 |
| (2) | 2nd offense | \$800.00 |
| (3) | 3rd offense | \$1,000.00 |

(e) The presumptive civil penalty for refusing to present photographic identification is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$250.00 |
| (3) | 3rd offense | \$500.00 |

(f) The presumptive civil penalty for permitting an individual to practice cosmetic art with an expired license is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$ 50.00 |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$250.00 |

(g) The presumptive civil penalty for practicing or attempting to practice by fraudulent misrepresentation is:

- | | | |
|-----|-------------|-----------|
| (1) | 1st offense | \$500.00 |
| (2) | 2nd offense | \$800.00 |
| (3) | 3rd offense | \$1000.00 |

(h) The presumptive civil penalty for the illegal use or possession of equipment or ~~Methyl-Methacrylate Monomer (MMA)~~ in a cosmetic art shop or school is:

- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$300.00 |
| (2) | 2nd offense | \$500.00 |

(3) 3rd offense \$1000.00

(i) ~~The presumptive civil penalty for failure to maintain footspa sanitation records is:~~

~~(1) 1st offense \$100.00~~

~~(2) 2nd offense \$200.00~~

~~(3) 3rd offense \$300.00~~

History Note: Authority G.S. 88B-4; 88B-24; 88B-29;

Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff. September 1, 2012; September 1, 2011; July 1, 2010; December 1, 2008; January 1, 2006; April 1, 2004; August 1, 2002; April 1, ~~2001~~; 2001; March 1, 2013.

21 NCAC 14T .0612 INSTRUCTION GUIDELINES IS PROPOSED FOR AMENDMENT AS FOLLOWS:

21 NCAC 14T .0612 INSTRUCTION GUIDELINES

- (a) The hours earned in the advanced department must be devoted to study and performance completions.
- (b) Work in the advanced department may be done on the public. Cosmetology and apprentice students with less than 300 hours, esthetician students with less than 75 hours, and manicurist and natural hair care students with less than 60 hours must not work in this department and are not allowed to work on the public except shampoo and scalp manipulations.
- (c) All work done by students on the public must be checked by the cosmetic art teacher as the work is being performed and after the service has been completed so that the teacher may point out errors to the student in order that they may be corrected.
- (d) Cosmetic art students shall receive training ~~and passing scores on examinations~~ on theory prior to performing services.
- (e) Theory work shall include lectures on theory subjects as well as demonstrations, questions and answers on textbooks, written examinations, and in-class practice of procedures and methods.
- (f) Cosmetic art teacher trainees must be enrolled in school to earn hours.
- (g) Cosmetic art schools must supply each student with a copy of An Act to Regulate Cosmetic Art, Board rules, and the student handbook.
- (h) All of the work outlined in the Beginners' Department and the Advanced Department shall be given to the students through practical demonstrations and lectures, questions and answers on textbooks, and written exam.
- (i) A minimum of 10 percent of scheduled attendance time per week shall be dedicated to theory instruction, questions and answers on textbooks, and written exam shall be given to full time students per week.
- (j) All papers shall be graded and returned to the students in order that the students may see their errors.
- (k) Cosmetic art students may receive training and practice only in the discipline in which they are enrolled.
- (l) All live model performances must be done in the advanced department. Mannequin performances and live model performances on other students may be performed in the advanced department or in an advanced department classroom or room within the school with the required space and equipment for practice.
- (m) Textbooks shall not be used more than five years after original publication date.
- (n) Schools must provide text books and supplementary educational materials and equipment to students.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. January 1, 2012;
Amended Eff. October 1, 2012; 2012; March 1, 2013.*

21 NCAC 14T .0701 SCHOOL OPERATIONS/LICENSURE MAINTENANCE IS PROPOSED FOR AMENDMENT AS FOLLOWS:

SECTION .0700 - SCHOOL LICENSURE, OPERATIONS, CLOSING AND RELOCATING SCHOOLS

21 NCAC 14T .0701 SCHOOL OPERATIONS/LICENSURE MAINTENANCE

- (a) No individual shall be given credit for any hours earned in a cosmetic art school before the date the school is granted a license, before the student is enrolled or after graduation or withdrawal without a new enrollment.
- (b) All Cosmetic Art schools must submit hours of operation per cosmetic art discipline to the Board. Any changes to the hours of operation must be submitted to the Board. A school will be considered open by the Board when cosmetic art instruction, services or performances are provided.
- (c) Students can be required to clean and disinfect work areas, reception areas, implements and the dispensary. Students cannot be required to perform regular maintenance.
- (d) All cosmetic art schools must adhere to all Board sanitation regulations.
- (e) Cosmetic art schools may permit students to leave the cosmetic art school to visit on campus libraries and other educational resource rooms such as computer labs for research and study under the supervision of a cosmetic art instructor.
- (f) Cosmetic art schools must use the following grading scale as a minimum for passing grades:

Grade A	100-90
Grade B	80-89
Grade C	70-79
Grade F (Fail)	0-69

- (g) Cosmetic art schools shall not graduate any student who has not met the minimum school and Board requirements for graduation.
- (h) Examinations shall be administered in all subjects of the cosmetic art curriculum. ~~Students must pass examinations in all curriculum subjects.~~
- (i) Students present at school must be supervised by a cosmetic art teacher at all times. If a guest lecturer is leading a class, at least one cosmetic art teacher must be present in the lecture.
- (j) All cosmetic art schools shall provide:
 - (1) One teacher for every 25 students enrolled in the beginner department.
 - (2) During student practical work on live models, in the advanced department a ratio of one teacher for every 20 students.
 - (3) Cosmetic art teachers at a ratio of 1:25 teacher to teacher trainees; or
 - (A) one teacher and up to 25 beginner cosmetic art students and 5 teacher trainees; or
 - (B) one teacher and up to 20 cosmetic art students in practice on the clinic floor and 5 teacher trainees.
- (k) In theory classes the teacher student ratio may exceed the ratios established in this Rule.

- (l) The teacher student ratios established in this Rule shall be adhered to when schools are in operation.
- (m) A teacher shall not administer instruction to students enrolled in beginner and advanced departments at the same time.
- (n) At no time can any one teacher be simultaneously responsible for students in a theory class and students in practice on the clinic floor.
- (o) The Board must be notified of changes in teaching staff by written correspondence prior to instruction by the new teacher.
- (1) A change in teaching staff includes any substitution for the regularly scheduled teacher and any change, scheduled or otherwise, in the list of teachers last given to the Board.
 - (2) All courses in a cosmetic art school must be taught by a licensed cosmetology teacher, except that manicuring courses may be taught by either a licensed cosmetology teacher or a licensed manicurist teacher, natural hair care courses may be taught by either a licensed cosmetology teacher or a licensed natural hair care teacher, and esthetics courses may be taught by either a licensed cosmetology teacher or a licensed esthetician teacher. A licensed cosmetologist not licensed as a cosmetology teacher may substitute for a cosmetology, esthetician, natural hair care or manicurist teacher; a licensed manicurist not licensed as a manicurist teacher may substitute for a manicurist teacher; a licensed natural hair care specialist not licensed as a natural hair care teacher may substitute for a natural hair care teacher; and a licensed esthetician not licensed as an esthetician teacher may substitute for an esthetician teacher.
- (p) In no event may any cosmetic art licensee substitution last for more than 15 consecutive working days per year per teacher. If any teacher substitution is 16 consecutive days or longer, the school must provide a new cosmetic art teacher.
- (q) Enrolled students may earn a maximum of 10 hours per day per discipline of cosmetic art and a maximum of 48 hours per week per discipline. A student enrolled in more than one cosmetic art discipline may not earn hours or performances concurrently.
- (r) A cosmetic art student must complete at least 1/3 of the minimum required hours in the cosmetic art school certifying his or her application for the state board examination.
- (s) Upon written petition by the student and the school, the Board shall make an exception to the requirements set forth in Paragraph (r) of this Rule if the student shows that circumstances beyond the student's control prohibited him or her from completing a minimum of 1/3 hours at the school that certifies his or her application.
- (t) The Board shall certify student hours for any North Carolina cosmetic art school that is closed. The Board shall not certify student hours between any North Carolina open cosmetic art schools. The Board shall certify student hours earned at North Carolina cosmetic art schools to other state boards and schools open outside of the state of North Carolina.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. February 1, 2012;*

Amended Eff. October 1, ~~2012~~2012; March 1, 2013.

21 NCAC 14T .0502 PERMANENT RECORDS, FORMS AND DOCUMENTATION IS PROPOSED FOR AMENDMENT AS FOLLOWS:

21 NCAC 14T .0502 PERMANENT RECORDS, FORMS AND DOCUMENTATION

(a) Cosmetic art schools must maintain a secure/locked permanent file of matriculations for all enrolled students and students that have withdrawn or graduated within the last six months together in one room within the approved square footage of the cosmetic art school. Withdrawal and graduation forms reviewed by the Board or an agent of the Board may be removed from this room. The permanent file shall include a copy of:

- (1) Board Enrollment Form;
- (2) Documentation of student receipt of school policies, school/student contract and the Board felony policy;
- (3) All applicable Board Withdrawal Forms;
- (4) Social security card for any individual that has a social security number or tax ID card or student visa information;
- (5) Government issued ID and proof of date of birth;
- (6) Grades for all examinations and documentation for pass/fail performances;
- (7) Documentation for any leave of absence over 30 days;
- (8) Transfer of hours form documenting hours earned in other schools and hours accepted by current school; and
- (9) Graduation Form.

(b) Record of hours earned daily, including field trip hours and documentation of field trip hours (updated and subtotaled weekly with a running grand total):

- (1) A daily record shall be kept of the performances for each student, showing the actual date of the performance and the teacher that approved;
- (2) A daily record shall be kept of the actual number of hours of attendance; and
- (3) Performance Record (updated and subtotaled weekly).

(c) When a student enrolled in a cosmetic art school withdraws from such school, the cosmetic art school shall report the withdrawal to the Board of the administrative decision to withdraw the student.

(d) If a student withdraws from a cosmetic art program within the first five days, the school need not submit the enrollment to the Board.

(e) The graduation form documentation must be signed by on site school staff or on site school administrators and must have the seal of the school affixed. The original graduation form documentation must be prepared on the Board form. The cosmetic art school shall mail, within 30 days after the student's graduation date, with the school seal affixed, the graduation form documentation to the Board at the Board's address.

(f) All forms submitted to the Board must be sealed originals and a copy maintained in the school file. All forms submitted to the Board must be completed, except for student signatures as necessary, by on site school staff or on site school administrators. Board forms shall be used for the sole purpose of documenting to the Board student records and shall not be used to notify students of enrollment, transfer of hours, withdrawal or graduation.

- (g) Changes or corrections to any Board form must be submitted to the Board with supporting documentation.
- (h) All cosmetic art schools must maintain an original, daily record of enrolled students hours and performances on file at the school. This record must be kept in a secured location under lock and key but made available for review by the Board or its agent at any time.
- (i) All records kept by a cosmetic art school on a student that has withdrawn or graduated must be kept in the school's locked files for future reference until the date the student is accepted for the state board examination or five years after the date the student first enrolled in the school, whichever occurs earlier. Forms reviewed by the Board or an agent of the Board may be removed from this room.
- (j) The record of all hours and performances must be ~~verifiable through documentation such as time cards or performance grading documented.~~ Credit issued to students that cannot be verified may be eliminated from the student record by an agent of the Board.
- (k) Access to student records must be limited to agents of the Board, teachers and administrators of the school. Records cannot be altered offsite. Records altered onsite must be attached to supporting documentation.
- (l) All individuals in a cosmetic art school receiving cosmetic art education, earning hours, performing or practicing cosmetic art services must be enrolled in the school.
- (m) Only teachers reported to the Board as employees of a cosmetic art school may grade practical student examinations and evaluate pass/fail of student performances. Only on site teachers, on site school administrators or on site school staff shall record student hours and performances, grade examinations and determine completion and record credit of live model/mannequin performances.
- (n) Passing grades for examinations and the successful completion of live model/mannequin performances as determined through the school's evaluation plan that is approved by the Board at the time of application shall be disclosed to students at the time of enrollment. Passing grades and performances cannot be credited to students without meeting the requirements of the evaluation plan.
- (o) Cosmetic art schools must provide to each student a copy of school policies, the Board felony policies and retain for the permanent file a copy of the student's acknowledgement of receipt.
- (p) Students with unsatisfied academic obligations shall not be submitted to the Board as graduates.
- (q) Cosmetic art schools shall not report to the Board the unsatisfied financial obligations of any cosmetic art student. Cosmetic art schools must not prevent the graduation of students that have met the Board minimum requirements and passed all school academic requirements.
- (r) Records of hours must be rounded to no more than the nearest quarter hour. Cosmetic art schools cannot give or deduct hours or performances as a reward or penalty.
- (s) An applicant may receive credit for instruction taken in another state if the conditions set forth in this Rule are met:
 - (1) The applicant's record shall be certified by the state agency or department that issues licenses to practice in the cosmetic arts. If this agency or department does not maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified by any state department or state agency that does maintain such records and is willing to certify

their accuracy. If no state department or board will certify the accuracy of the student's records, then the Board shall review the student's records on a case-by-case basis. ~~Hours transferred between open North Carolina schools must be obtained by the submission of the Board transfer form submitted directly from the school in which the hours are earned with the school seal affixed, with grades for examinations and performance. Such original documentation shall be submitted to the Board with enrollment; and~~

- ~~(2) In order that hours may be transferred from one cosmetic art school to another, a student must pass an entrance examination given by the school to which the student is transferring.~~

(t) Hours transferred between open North Carolina schools must be obtained by the submission of the Board transfer form submitted directly from the school in which the hours are earned with the school seal affixed, with grades for examinations and performance. Such original documentation shall be submitted to the Board with enrollment

(u) In order that hours may be transferred from one cosmetic art school to another, a student must pass an entrance examination given by the school to which the student is transferring.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012, 2012;

Amended Eff. March 1, 2013.

21 NCAC 14T .0606 NATURAL HAIR CARE STYLING CURRICULUM IS PROPOSED FOR AMENDMENT AS FOLLOWS:

21 NCAC 14T .0606 NATURAL HAIR CARE STYLING CURRICULUM

(a) To meet the approval of the Board, a natural hair care styling training course must consist of at least 300 hours of instruction in theory and practical application, divided as follows:

Theory and Performance Requirements	Hours	Services	
Beginners: Sanitation, bacteriology, disinfection, first aid, shampooing, draping, anatomy, disorders of the hair and scalp <u>scalp, client consultation</u>	60		
Advanced: Styles and techniques of natural hair styling including twisting, wrapping, extending, locking, blowdry and hot <u>thermal iron</u> ; and business management and professional ethics	240		
Performance Requirements		Mannequin	Live Model
Braids		5	5
Twists		5	5
Knots		3	2
Corn rows		3	2
Hairlocking		5	5
Artificial hair and decorations		5	5
Blow dry and flat <u>thermal iron</u>		5	5
Braid Removal		5	5

- (b) A minimum of 60 hours of theory and is required prior to conducting live model performances on the public.
- (c) Certification of live model or mannequin performance completions is required along with the graduation form and application for the examination.
- (d) ~~A live model may be substituted for a mannequin for any mannequin service.~~
- (e) All mannequin services may be performed using a simulated product.
- (f) Simulated product is not allowed for credit for live model performance.
- (g) Mannequin services shall not be substituted for live model services.
- (h) ~~Sharing of performance completions is not allowed.~~ allowed unless the live model service consists of 20 or more lengths of hair.
- (i) Credit for a performance shall be given to only one student.
- (j) A performance shall consist of 10 or more lengths of hair.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012-2012;
Amended Eff. March 1, 2013.

21 NCAC 14H .0301 WATER SUPPLY IS PROPOSED FOR AMENDMENT AS FOLLOWS:

21 NCAC 14H .0301 WATER SUPPLY

- (a) Cosmetic art shops shall have a sink with hot and cold running water in the clinic area, separate from restrooms.
- (b) When a service is provided in a room closed off by a door, the ~~water-supply sink~~ sink required in this Rule must be within 20 feet of the door or 25 feet from the service table or chair. The restroom sink shall not be used to meet this requirement.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-14;
Eff. April 1, ~~2012~~2012;
Amended Eff. March 1, 2013.*